

Department of Mental Health
TRANSMITTAL LETTER

SUBJECT DMH Policy on Protecting Consumers from Abuse		
POLICY NUMBER DMH Policy 482.1	DATE DEC 12 2003	TL# 36

Purpose. To establish the Department of Mental Health (DMH) policy for the protection of consumers from abuse and neglect.

Applicability. Applies to all DMH certified Core Services Agencies (public and private), Saint Elizabeths Hospital, DMH contractors, and all other mental health providers who are licensed or certified by DMH. The term "employee" when used in this policy, applies to all DMH staff, including employed consumers, volunteers, students and interns; and employees of mental health providers/contractors. See Section 12 of the policy regarding visitors.

Policy Clearance. Reviewed by affected responsible staff and cleared through appropriate MHA offices and the DMH Policy and Planning Committee.

Implementation Plans. A plan of action to implement or adhere to this policy must be developed by designated responsible staff. If materials and/or training are required to implement this policy, these requirements must be part of the action plan. Specific staff should be designated to carry out the implementation and program managers are responsible for following through to ensure compliance. Action plans and completion dates should be sent to the appropriate authority. Contracting Officer Technical Representatives (COTRs) must also ensure that contractors are informed of this policy if it is applicable or pertinent to their scope of work. *Implementation of all DMH policies shall begin as soon as possible. Full implementation shall be completed within sixty (60) days after the date of this policy.*

Policy Dissemination and Filing Instructions. Managers/supervisors of DMH and DMH contractors must ensure that staff are informed of this policy. Each staff person who maintains policy manuals must promptly file this policy in Volume I of the blue **DMH** Policy and Procedures Manual and contractors must ensure that this policy is maintained in accordance with their internal procedures.

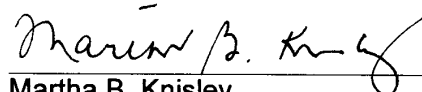
ACTION


REMOVE AND DESTROY

CMHS Policy 50000.482.1, Protecting Consumers from Abuse, dated March 30, 2000

INSERT

DMH Policy 482.1


Martha B. Knisley
Director, DMH

<p>GOVERNMENT OF THE DISTRICT OF COLUMBIA</p>  <p>DEPARTMENT OF MENTAL HEALTH</p>	<p>Policy No. 482.1</p>	<p>Date DEC 12 2003</p>	<p>Page 1</p>
<p>Supersedes: CMHS Policy 50000.482.1, Protecting Consumers from Abuse, dated March 30, 2000</p>			
<p>Subject: DMH Policy on Protecting Consumers from Abuse</p>			

1. **Purpose**. To establish the Department of Mental Health (DMH) policy for the protection of consumers from abuse and neglect.

2. **Applicability**. Applies to DMH certified Core Services Agencies (public and private), Saint Elizabeths Hospital, DMH contractors, and all other mental health providers who are licensed or certified by DMH. The term "employee" when used in this policy, applies to all DMH staff, including employed consumers, volunteers, students and interns; and employees of mental health providers/contractors. See also Section 12 below regarding visitors.

3. **Authority**. MHRS Certification Standards, dated November 9, 2001; and the Mental Health Service Delivery Reform Act of 2001.

4. **Policy**. Consumers shall be free from physical, emotional, sexual, or financial abuse, neglect, harassment, coercion, and exploitation when seeking or receiving mental health services and mental health supports. Such abuse will not be tolerated and shall result in swift disciplinary action.

In addition, professional staff must abide by the ethical principles of their State licensing boards or professional organizations when those standards are more restrictive than the standards as defined in this policy.

5. **Definitions**.

5a. **Abuse**. Any knowing, reckless, or intentional act or omission by an employee that causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to, physical or emotional injury, death, or financial exploitation of a consumer.

(1) **Physical Abuse**. Any physical contact that is potentially harmful to a consumer that may or may not result in physical injury including, but not limited to:

- striking a consumer;
- use of excessive force when placing a consumer in bodily restraints; and
- use of bodily or medical restraints which are not in compliance with federal and state laws and regulations.

(2) **Sexual Abuse/Relations**. Rape, sexual assault, and any type of romantic involvement or sexual behavior/intimacy, sexual harassment, or sexual contact between an employee and a consumer, ***with or without the consumer's consent or awareness, is considered sexual abuse***. Similar contacts with former consumers are considered abusive when privileged information or direct therapeutic relationship with the employee was a component of the consumer's prior treatment and/or contact with the MH provider.

(3) **Mental/Verbal Abuse**. The use of verbal or nonverbal action or threatening words, humiliation, teasing, taunting, harassment, threats of punishment or deprivation, or derogatory words to a consumer.

(4) **Financial Exploitation**. Any financial dealing between an employee and consumer with or without the consumer's consent, excluding financial transactions required in the conduct of professional duties that involve the handling of a consumer's money (e.g., case manager or social worker).

5b. **Consumer**. An adult, child or youth who seeks or receives mental health services or mental health supports funded or regulated by DMH.

5c. **Neglect**. Any act or omission by an employee that causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to, the injury, death, or financial exploitation of a consumer.

6. **Pre-existing Personal Relationships**.

All employees, including new employees (newly hired, transferred, or assigned) who had/have a personal relationship with a consumer or a member of the consumer's immediate family that pre-existed the date of the consumer's enrollment in a core services agency or admission to Saint Elizabeths Hospital, must reveal that relationship to his/her hiring official/supervisor in order to ensure that actions that are clinically necessary are taken, such as making adjustments to remove the employee from a service or treatment provision relationship with that consumer. Upon request, the employee shall furnish information confirming that the relationship pre-existed the consumer's enrollment/admission.

7. **Responsibilities**.

7a. **DMH**.

(1) **Enforce** the protection of consumers by ensuring appropriate actions are taken by the MH provider whenever allegations of abuse and neglect are reported.

(2) **Investigate** all alleged violations reported through the unusual incident and grievance procedures (also see Section 8 below).

(3) **Notify or Verify** notification by the MH provider of appropriate authorities as required by federal and District laws and regulations.

(4) **May institute** proceedings to impose sanctions if the MH provider fails to take actions identified to rectify situations that led, or have the potential to lead, to abuse or neglect of consumers.

(5) **Inform** consumers of their right to be free of abuse and neglect and the reporting procedures if they feel their rights have been violated.

7b. **Each MH Provider**.

(1) **Ensure** specific steps are taken and documented by supervisors at all levels to ensure that every current employee and every new employee (both those employed and those under contract to the MH provider) is aware of this policy.

(2) **Provide** training to staff and consumers on the definitions and types of abuse and neglect and the MH provider's policies on investigating allegations of abuse and neglect (also see Section 9 below).

(3) Whenever an incident of consumer abuse is reported, **take** all appropriate actions, especially providing any needed medical and psychiatric treatment and ensuring the consumer's safety.

(4) **Adhere** to the DMH unusual incident reporting policy and the consumer grievance rule and **establish and enforce** applicable procedures at the provider level (also see Section 8 below).

7c. **Each Supervisor.**

(1) **Provide** a copy of this policy, **document**, and **discuss** to ensure that each employee is aware of this policy.

(1) **Take** appropriate actions as indicated in this policy when consumer abuse is reported.

7d. **All Employees.**

(1) **Maintain** a courteous, respectful, and professional relationship with consumers.

(2) **Know** what is considered consumer abuse and the penalties for violations of this policy (Refer to Sections 5 and 11).

(3) **Report** incidents or allegations of consumer abuse or neglect to supervisor and **cooperate** in any follow-up investigations.

(4) **Notify** supervisor of any personal relationships (other than professional, clinical, or therapeutic) between an employee and a consumer or a member of the consumer's immediate family.

7e. Because it is impossible to precisely categorize all human interaction, employees may still encounter "gray areas" when relating with consumers. In the event that questions arise concerning the appropriateness of particular aspects of employee-consumer relationships, supervisory personnel should consult with the DMH Office of Consumer and Family Affairs and their agency's ethics officer.

8. Reporting and Investigating Unusual Incidents. Abuse or neglect or an allegation of abuse or neglect of consumers shall be reported as a major unusual incident in accordance with DMH Policy 480.1, Major Unusual Incident Notification Procedures, and the modification of Major Unusual Incident Procedures notice dated July 1, 2003. All investigations of consumer abuse and neglect shall be conducted in accordance with DMH unusual incident reporting and grievance procedures (see also Section 10 below).

9. Specific Guidance. Each MH provider shall establish a policy on protecting consumers from abuse that addresses the following issues:

(1) Procedures for immediate treatment and care of the consumer, when necessary.

(2) Internal and external (including DMH) reporting procedures.

- (3) Notification procedures (e.g., police and other government agencies).
- (4) Reasonable measures to ensure health, safety, and emotional well being of the consumer (including removal of the consumer from the care of any staff person alleged to have been involved in abuse or neglect, or removal of the staff person alleged to have been involved in abuse or neglect until it is determined that removal is no longer necessary).
- (5) Investigation, documentation, follow-up, and monitoring.
- (6) Disciplinary/corrective action of employee if warranted, including procedures for placing staff accused of abuse or neglect on administrative leave, pending investigation.
- (7) Corrective action plan to address the findings of the investigation and to prevent future reoccurrences.
- (8) Employee training (during staff orientation and ongoing).

10. **Confidentiality.** Investigations of abuse and neglect shall be considered protected under the Mental Health Information Act of 1978, as amended [D.C. Code §7.1201.01 *et seq.* (2001 ed.)]. Whenever an investigation report contains mental health information about a consumer, the confidentiality of the information shall be maintained consistent with the provisions of the Act and other relevant District and federal laws.

11. **Corrective/Disciplinary Action.** Violation of the law, this policy, or Chapter 18 of D.C. Personnel Regulations (Employee Conduct) may be cause for corrective/disciplinary action of DMH employees. Any action taken may be in addition to any penalties prescribed by law, and in accordance with applicable laws and regulations, particularly §1-617.1, D.C. Code (1981 ed.); and D.C. Office of Personnel policies, rules, and regulations. DMH supervisors shall consult with the Division of Human Resources as needed.

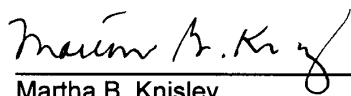
Likewise, private mental health providers and contractors must take corrective/disciplinary action in accordance with their internal procedures and must comply with applicable laws and regulations.

12. **Visitors.** Allegations of abuse by visitors shall be reported through the unusual incident procedures including notifying appropriate authorities such as law enforcement and others as required by federal and District laws and regulations as applicable.

13. **Related References.**

DMH Policy 480.1, Major Unusual Incident Notification Procedures, dated 12/17/02; and
Modification of Major Unusual Incident Reporting Procedures Notice, dated 07/01/03.
DMH Rule on Consumer Grievance Procedures, effective 10/10/03, (50 D.C. Reg. 8480).

Approved By:

 12/12/03
Martha B. Knisley (Date)
Director, DMH